



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: BCS - 175116

PRELIMINARY RECITALS

Pursuant to a petition filed on June 20, 2016, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on July 26, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly discontinued the Petitioner's MA benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On May 23, 2016, the Petitioner completed a FS renewal. He reported new employment at [REDACTED] 28 hours/week at \$10/hour.

3. On May 24, 2016, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of his income and employment. The due date for the information was June 2, 2016.
4. On May 31, 2016, the agency issued a Notice of Decision to the Petitioner that his healthcare benefits would end effective July 1, 2016 due to income exceeding the program limit. The notice informed the Petitioner that the agency's determination was based on counted income of \$1,120/month from his employment at [REDACTED].
5. On June 20, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.
6. On June 28, 2016, the Petitioner provided verification of employment and income.

DISCUSSION

Effective April 1, 2014, the income limit for BC+ is 100% of the federal poverty level (FPL). For a one-person household, that limit is \$990/month. See Wis. Stat., §49.471(4)(a)4.b and the BC+ Handbook, Appendix 50.1.

In this case, the agency received verification of the Petitioner's income from his May and June, 2016 pay statements. His income in June, 2016 was \$1,340.08 and in May, 2016 it was \$1,472.51. The agency determined his counted income was \$1,120/month.

At the hearing, the Petitioner testified that he can't afford his medications without BC. He does not get health insurance from his employer. He has applied for disability in the past but has been denied. He currently has another application pending. He stated that he has contacted the federal marketplace but was unable to find affordable insurance. He also has outstanding medical bills.

The Petitioner is requesting equitable relief from the BC+ regulations. A hearing examiner does not have equitable authority and must apply the regulations as they are written. In this case, the evidence demonstrates that the Petitioner's gross monthly income exceeds \$990/month. Therefore, I must conclude that the agency properly determined that the Petitioner is not eligible for BC+ benefits.

If the Petitioner's circumstances change, he can re-apply for BC+ at any time.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner is not eligible for BC+ benefits effective July 1, 2016 due to income exceeding the program limits.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and

why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 16th day of August, 2016

\s _____
Debra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 16, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability